

**BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: September 21, 2005

Division: County Attorney

Bulk Item: Yes ☐ No ☒ xxx

Department: County Attorney

Staff Contact Person: Bob Shillinger x3470

AGENDA ITEM WORDING:

Presentation of settlement options in *Monroe County v. Dirk Damrau*, CA K 05-667; and authorization for staff to settle case for \$4,748.00.

ITEM BACKGROUND: The County owns a code enforcement lien against Mr. Damrau's property on Big Pine Key in the amount of \$206,100.00. The case began in July 1999 when he was noticed with a violation for building/repairing a fence and land clearing without a permit. When mail to the London, England address the owner had provided to the Property Appraisers office was returned, notice was achieved via posting. When no progress was reported on obtaining the permits, the Special Master imposed a daily fine of \$200.00 that commenced running on March 21, 2001. On August 4, 2003, the County Attorney's office spoke with the owner and confirmed the existence of the lien and the running fine. The owner cured the violations on January 14, 2004, 1030 days after the fine began running but only 164 days after he spoke with this office. Though the owner achieved compliance in just over 5 months, he failed to address the outstanding fines at that time.

Upon being notified that suit had been filed against him in August 2005, he offered to settle the \$206,100.00 fine for \$555.00 the amount spent by the County in costs in instituting that action. The owner justifies his offer to pay only the costs incurred because he claims to have been merely repairing a fence that had been originally permitted in 1995 but had been damaged in Hurricane Georges. That offer represents approximately 2.7% of the total fine. To date, the County has incurred \$900 in attorney's fees in attempting to enforce this lien in addition to the \$568 dollars in costs that it has spent.

This is one of the last of the old code enforcement liens that the Board authorized the County Attorney's office to clean up in 2003. While all legal notice requirements were complied with at the code enforcement level, communication in this case has been complicated by the foreign address and travels of the violator. He did complete the permitting process in just over 5 months after this office first spoke to him. That process included getting a coordination letter from FWS. Using the 164 day period as a starting point, a \$200 per day fine would total \$32,800.00. If the Board keeps to its unwritten rule of settling these older liens for 10%, plus costs and fees, the settlement figure should be \$4,748.00 (\$3,280 fine + \$900 attorney's fees + \$568.00 costs). If the County were to reject all offers and forge ahead with the collection litigation, it could expect to incur an additional \$3500 in attorney's fees and costs to foreclose a \$206,100.00 lien on a property the PAO appraised at \$1,191,422.00.

PREVIOUS RELEVANT BOCC ACTION: On 6/18/03, the BOCC authorized collection action.

CONTRACT/AGREEMENT CHANGES: n/a

STAFF RECOMMENDATIONS: Rejection of offer; counter offer to settle at \$4,748.00

Agenda Summary – Monroe County v. Dirk Damrau (Continued):

TOTAL COST: n/a

BUDGETED: Yes xxx No

COST TO COUNTY: n/a

SOURCE OF FUNDS: n/a

REVENUE PRODUCING: Yes xx No **AMOUNT PER MONTH** n/a **Year** n/a

APPROVED BY: County Atty xx OMB/Purchasing Risk Management

DIVISION DIRECTOR APPROVAL:

John R. Collins 08/26/05

John R. Collins, County Attorney

DOCUMENTATION: Included Not Required xx

DISPOSITION:

AGENDA ITEM #

Revised 2/05